

K.S.A. 44-534a, as amended, allows appeals from preliminary orders with regard to the following disputed issues:

1. Whether the employee suffered an accidental injury;
2. Whether the injury arose out of and in the course of the employee's employment;
3. Whether notice is given or claim timely made;
4. Whether certain defenses apply.

These issues are considered jurisdictional and subject to review by the Appeals Board. K.S.A. 44-551, as amended, provides that the Appeals Board shall not review a pending preliminary hearing order entered by an administrative law judge unless it is alleged that the administrative law judge exceeded his jurisdiction in granting or denying the relief requested. K.S.A. 44-534a, as amended, grants the administrative law judge the authority to make or deny orders with regard to temporary total disability compensation or ongoing medical treatment.

In this instance, the dispute centers around whether claimant is in need of additional medical treatment. Claimant has introduced the evidence of Dr. Arthur B. Jenny which indicates claimant is in need of additional medical care. Respondent on the other hand has introduced medical documents from Dr. Robert Thomen, Dr. Edward Prostic, and Dr. John G. Yost, Jr., all of whom indicate claimant has reached maximum medical improvement. As K.S.A. 44-534a, as amended, grants the administrative law judge the authority to decide issues dealing with the necessity for medical treatment, an appeal regarding the above dispute between the doctors would not be one over which the Appeals Board would take jurisdiction from a preliminary hearing. As such, the appeal by the claimant is dismissed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that claimant's appeal is dismissed and the Order of Administrative Law Judge Jon L. Frobish dated June 26, 1997, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 1997.

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BOARD MEMBER

c: William L. Phalen, Pittsburg, KS  
Roger E. McClellan, Wichita, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director